IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION No: 22405 of 2004

Between:

Banwarilal S/o Dayaram ,Occ: Business
R/o 19-5-10/9/2, Bahadurpura Colony, Hyderabad

..... PETITIONER

AND

1 Transmission Corporation of A.P., Ltd., (AP TRANSCO) rep by Chairman & Managing Director Vidyut Soudha,
Khairatabad, Hyderabad

2 The Provisional Assessing Officer/Authorised Divisional Engineer, Operation, Miralam, Hyderabad the
Central Power Distribution Company of A.P. Ltd., (AP Transco), 4th Floor, A.P. State Ware Housing
Corporation Building, Urdu Hall, Himayathnagar Hyderabad

3 The Divisional Engineer, Assessment-I, The Central Power Distribution Company of A.P., Ltd., (AP Transco), 4th Floor, AP State Ware Housing Corporation Building, Urdu Hall, Himayathnagar, Hyderabad

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction preferably one in the nature of Writ of Mandamus declaring the action of the respondents in insisting upon the petitioner to pay the entire amount under the provisional Assessment vide Letter No. ADA/DEP.I/Hyderabad/S/Doc.V-29067/D.No. 236/04, dated 31.07.2004, in spite of

deposit of half of the amount under the provisional assessment by the petitioner, without considering the request of the petitioner for re-assessment, as illegal, arbitrary and contrary to law and consequently direct the respondents to re-assess the same basing on the actual payments made by the petitioner, and pass such other or further orders as are necessary.

Counsel for the Petitioner: MR.J.KANAKAIAH

Counsel for the Respondents: MR.KANAKAMEDALA RAVINDRA KUMAR

The Court made the following:

ORDER : -

The petitioner is connected with domestic electric supply. He was issued an order of provisional assessment, dated 31.7.2004, alleging that during the course of inspection on 31.7.2004, it was found that the meter was sluggish, and that there are traces of tampering with the meter seals. On that basis, the provisional assessment of loss of power, was arrived at Rs.2,42,518/-. The petitioner was required to pay half of the same to receive continuous power supply. Accordingly, the petitioner claims to have paid half of the demanded amount on 06.8.2004. His grievance is that despite the same, the respondents are insisting on payment of the balance amount, and as of now, no order of final assessment has been made.

2. Learned counsel for the petitioner submits that the matter squarely falls within sub-section (5) of Section 126 of the Electricity Act, 2003 (for short “the Act”), and

despite the same, the respondents have assessed the loss by taking one year anterior to the date of inspection as against three months.

3. Learned standing counsel for the respondents, on the other hand, submits that necessary exercise would be undertaken at the time of passing the order of final assessment, and it is too difficult to assume anything at this stage.

4. The order of provisional assessment issued to the petitioner has to be followed by order of final assessment. The petitioner has already paid half of the amount. Strictly speaking, in view of the judgment rendered by a Division Bench of this Court, no amount can be collected on the strength of an order of provisional assessment. All the same, the petitioner paid half of the amount. Hence, respondents are not entitled to demand any further amount.

5. The question as to whether the provisions of Section 126(5) of the Act get attracted to the facts of this case, needs to be considered while passing the order of final assessment. The petitioner vehemently contends that the present case clearly falls within the scope of the said provision.

6. The writ petition is therefore disposed of, directing the respondents to take into account the relevant provision including Section 126(5) of the Electricity Act, as well as other submissions made by the petitioner in the explanation, and pass order of final assessment, within one month from the date of receipt of a copy of this order. In the meanwhile, the petitioner shall not be insisted on payment of any amount, in pursuance of the order of provisional assessment. He shall, however, be liable to pay the consumption charges. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 06th December, 2004

Note: - Issue C.C in three days

(B/o)

RAR

To

1 The Chairman & Managing Director, Transmission Corporation of A.P., Ltd., (AP TRANSCO), Vidyut Soudha,
Khairatabad, Hyderabad.

2 The Provisional Assessing Officer/Authorised Divisional Engineer, Operation, Miralam, Hyderabad.
The Central Power Distribution Company of A.P. Ltd., (AP Transco), 4th Floor, A.P. State Ware Housing
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